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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION FOUR

A.B. et al.,
Petitioners,

v.

THE SUPERIOR COURT OF SAN
FRANCISCO COUNTY,

Respondent;
SAN FRANCISCO HUMAN SERVICES
AGENCY,
Real Party in Interest.

A138572

(San Francisco County
Super. Ct. Nos. JD12-3316,
JD12-3316A)

Petitioners Karen R. (mother) and presumed father A.B. petition this court for extraordinary writ review of juvenile court orders finding that their infant daughter, S.B., suffered severe physical abuse and denying them services to reunify with S.B. and her older brother, G.B.¹ We deny their petitions because the orders were supported by sufficient evidence, and the record demonstrates no abuse of discretion by the juvenile court.

¹ In the interest of clarity and readability, we avoid the use of initials and will refer to S.B. as the infant, daughter, or baby, and we will refer to G.B. as the older brother.

I.
FACTUAL AND PROCEDURAL
BACKGROUND

In early November 2012, mother brought her then seven-month-old daughter to a San Francisco hospital after she noticed that the baby's left thigh appeared to be swollen. Although the baby did not seem to be in distress during the visit, a medical examination revealed that she had a total of 13 fractures in her left femur, shins, left thumb, and ribs. She was diagnosed with "multiple fractures in various stages of healing," and these injuries were considered "highly suspicious" for nonaccidental trauma, especially since the infant was not yet walking.

Mother at first "refused to accept the facts" about her daughter's injuries, stating she could not believe her daughter had suffered so many fractures. Even after doctors showed her x-rays of the injuries, mother was quiet and had no emotional response. The hospital called the police to report suspected child abuse, and a responding officer placed a protective hold on the infant and notified the San Francisco Human Services Agency (Agency), the real party in interest.

In a lengthy discussion with a social worker and a police officer at the hospital, mother and father denied having physically abused their daughter and said they did not know how she could have sustained her injuries. Mother first claimed that she was a stay-at-home mother who was "always" with her daughter. The parents then raised the possibility that the older brother, then about three-and-a-half years old, could have inadvertently hurt his sister by jumping over her or falling on her. But, according to the social worker, the parents adopted this possibility after the police officer, who was inexperienced, suggested it during the interview. The social worker was struck by both parents' lack of emotional response to the allegations of abuse, and she reported that she had never seen anything like it in her 22 years of experience.

A further investigation at the hospital revealed that the infant had lost weight in the previous three months, which was consistent with a baby's body using calories to heal

multiple bone fractures. It also revealed that mother had missed her infant daughter's two-week and two-month medical appointments, with no plausible justification.

On November 8, the Agency filed a juvenile dependency petition under Welfare and Institutions Code section 300.² The petition alleged that the infant had suffered serious, nonaccidentally inflicted physical harm by a parent (§ 300, subd. (a)) and that there was substantial risk of the older brother suffering serious physical harm (§ 300, subd. (b)) because the daughter had been injured and because the parents had a history of domestic violence. The minors were ordered detained and placed with a paternal relative.

About a month later, an amended petition was filed that added allegations to the count under section 300, subdivision (a). These additions included allegations that the fractures constituted prima facie evidence that the infant daughter was a child described by the dependency statute under section 355.1 (evidence of neglect or abuse) and that the older brother was at a substantial risk of serious physical harm. The petition further added the sole jurisdictional allegation challenged by mother and father in this writ proceeding: namely, that mother and father had inflicted severe physical abuse on their infant daughter multiple times and on multiple body parts. (§ 300, subd. (e).)

A social worker with the Agency spoke with various people who knew the parents. Maternal relatives described father as “very controlling and possessive of mother,” reported evidence of possible physical abuse of mother by father, and stated that they had seen father fighting with mother and “not treating the children well,” including an incident when father shook the older brother when he was a baby. The social worker also learned about possible domestic violence, such as an incident in the summer of 2012 when mother called police and reported that father punched her in the face. When asked about the incident, mother denied that father had hit her.

According to the social worker, mother's explanation about who cared for her infant daughter “seemed to morph over time.” Mother and father suggested that a paternal cousin could have caused the injuries when briefly watching the infant or that the

² All statutory references are to the Welfare and Institutions Code.

baby could have been hurt when handled by someone at a barbeque to celebrate the Giants winning the World Series. The social worker discussed the daughter's injuries with the older brother (then four years old), who told the social worker that " 'Mommy squeezed her,' " and demonstrated the squeezing to the worker. The older brother also told the social worker, " 'My daddy did it, too.' " In any event, the parents' possible explanations for the injuries were inconsistent with what appeared to be "inflicted trauma."

In December 2012, the Agency filed a disposition report, which recommended that the minors be declared dependent children, that no reunification services be provided to mother or father, and that the juvenile court set a selection-and-implementation hearing under section 366.26. These recommendations were based on the severity of the abuse and because the injuries had apparently happened while the daughter was in her parents' care. The social worker reported that "[t]here are significant indicators in the parents' relationship of the type of dynamics and domestic violence profile that is associated with severe child abuse." Although the focus of dependency proceedings was on the daughter, the older brother reported that his parents hit him on his bottom with a belt, and he told the social worker that father bit his finger during a visit (though the people observing that visit did not see this or any other inappropriate behavior). He also acted out sexually, and the social worker reported that "children of this age do this in response to witnessing or experiencing sexual activity," which was "a significant concern especially in combination with physical abuse." The social worker concluded that it was "highly unlikely that the parents would be able to remedy the issues underlying the abuse and thus prevent further occurrence. The psychological profile of a parent who would inflict this type of abuse and/or of a parent that would knowingly allow someone to abuse their child(ren) in this way is difficult to effectively treat especially if there is no acknowledgement."

In an addendum report, the social worker reported that mother and father were making efforts on their own to participate in services, including therapy, a parenting class, a domestic-violence group (for mother), and a father's group (for father). The parents declined, however, to sign consent forms so that their service providers could

give the social worker more information, and they also declined to pursue the social worker's referrals for psychological evaluations.

The contested jurisdiction/disposition hearing was held over three days in April 2013. One social worker testified about the initial investigation of the daughter's injuries, and another testified about events after dependency proceedings were initiated, consistent with the Agency reports filed with the court. A pediatrician who examined the daughter at the hospital testified as an expert on child-abuse issues. He testified that the infant's rib fractures appeared to be the result of squeezing, and other fractures appeared to be from "twisting or jerking motions" and had characteristics that were "very specific for child abuse," meaning "we just don't see them in situations, many situations that aren't child abuse." The pediatrician concluded that "by far and away the most likely and concerning cause[]" of the fractures was child abuse. He also explained that it would take "excessive" force to break a baby's ribs, that a reasonable person would recognize the force as excessive, and that the force would cause pain and be expected to make the baby cry at the time of the injury.

The parents presented evidence that they had engaged in services on their own in an attempt to reunify with their children. A case manager with the Homeless Prenatal Program testified that mother and father had sought services before receiving a referral from the Agency. Mother seemed "very interested" in the classes that were recommended to her, and she completed a parenting class in March 2013, attended domestic-violence counseling and a domestic-violence support group, received individual therapy, and was working toward earning a general education or high school diploma. The case manager testified that mother and her infant daughter were "very connected" and "interact[ed] well together." Mother also attended couples' counseling with father, and they were apparently "both open to [their therapist's] feedback." According to the case manager, mother did not acknowledge the physical injuries suffered by her daughter, but she had started to understand why the Agency had become involved with her family and had learned from the classes she took. As for father, he attended a weekly fatherhood group and a parent support group, completed a parenting class, and had become more

open to suggestions and feedback about his parenting and “past actions,” though he denied causing his daughter’s injuries. Mother likewise told the case manager that she was not responsible for her daughter’s injuries.

A case manager with an organization that provides services to families with children who have been exposed to domestic or community violence testified about the various services mother and father had received through her organization. When he first started services, father denied that his relationship with mother involved domestic violence, but he later admitted that domestic violence had played a role in their relationship. Mother reportedly was “making a lot of progress” with “expressing what happened within [her] relationship” with father. According to the case manager, mother was “definitely headed in the right direction with her providing safety to her children,” but “there definitely need[ed] to be more counseling sessions” for her to understand domestic violence.

A senior family advocate who supervised weekly parental visits at a family resource center testified that the two minors appeared happy to see their parents at the beginning of visits, the parents were “very engaging” with the children during visits, and their interactions with the children did not raise any concerns. Various family members who had been in the parents’ home testified that mother and father were good and loving parents and that they (the witnesses) had never seen the parents hurt the children.

After the close of evidence, counsel for the agency argued that neither mother nor father would benefit from reunification services because they had failed to acknowledge any culpability for their infant daughter’s injuries. The minors’ counsel, however, recommended that the parents be given reunification services, stating that they “deserve[d] a chance.”

The juvenile court found that the infant daughter was a child described by section 300, subdivisions (a), (b), and (e) and that the older brother was a child described by section 300, subdivisions (a) and (b). It then denied reunification services for both parents, although it ordered visitation to continue. The court acknowledged that mother and father had “participated in programs, gone to all the visits, and started to work

towards domestic violence issues,” but it denied them services because “they have not held themselves accountable for the serious injuries suffered by” their infant daughter. The court scheduled a selection-and-implementation hearing, and mother and father timely sought extraordinary writ relief.

II. DISCUSSION

A. Substantial Evidence Supports the Juvenile Court’s Jurisdictional Finding.

Mother and father do not challenge the findings that the older brother is a dependent minor or that their infant daughter is a child described by section 300, subdivisions (a) and (b). Their sole challenge to the jurisdictional order is that the juvenile court lacked clear and convincing evidence that the daughter is a child described by subdivision (e).³ Subdivision (e) authorizes a juvenile court to take jurisdiction of a minor under the age of five who “has suffered severe physical abuse by a parent, or by any person known by the parent, if the parent knew or reasonably should have known that the person was physically abusing the child.” (§ 300, subd. (e).) The social services agency is required to prove three things to establish jurisdiction under subdivision (e): “(1) there is a minor under the age of five; (2) who has suffered severe physical abuse as defined in section 300, subdivision (e); (3) by a parent or any person known to the parent if the parent knew or reasonably should have known that the person was physically abusing the minor.” (*In re E.H.* (2003) 108 Cal.App.4th 659, 668.) Here, mother and father dispute the second and third elements. In reviewing these elements, we look to see whether they are supported by substantial evidence. (*In re Joshua H.* (1993) 13 Cal.App.4th 1718, 1726.)

³ As father acknowledges, the minors will remain under the jurisdiction of the juvenile court regardless how this court rules on the allegation under section 300, subdivision (e). We do not consider the challenge to jurisdiction to be moot, however, because the jurisdictional finding under this subdivision provided the legal basis for denying reunification services. (E.g., *In re L.Z.* (2010) 188 Cal.App.4th 1285, 1293-1294 [ordering reunification services after court found that jurisdictional finding under section 300, subdivision (e) not supported by substantial evidence].)

1. The daughter suffered severe physical abuse.

Mother and father argue that their daughter did not suffer “ ‘severe physical abuse’ ” as specifically defined by statute, even though mother acknowledges the “grave nature” of the injuries. “ ‘Severe physical abuse’ ” is defined as “any of the following: any single act of abuse which causes physical trauma of sufficient severity that, if left untreated, would cause permanent physical disfigurement, permanent physical disability, or death; [severe sexual abuse]; or more than one act of physical abuse, each of which causes bleeding, deep bruising, or significant external or internal swelling, bone fracture, or unconsciousness” (§ 300, subd. (e).)

The juvenile court sustained jurisdiction under subdivision (e) after finding that the daughter sustained multiple bone fractures on multiple occasions. The finding is amply supported in the record. The pediatrician who testified as a child-abuse expert explained that the baby’s fractures appeared to have occurred at different times (within a week to a month at most) based on the fact that the injuries were at different stages of healing. He reviewed the daughter’s x-rays with experienced radiologists, who *all* believed the injuries occurred at different times. The fracture to the infant’s left femur was likely the most recent based on its stage of healing.

The pediatrician acknowledged that dating fractures is “tricky and you can’t date exactly to a certain hour or day,” and he admitted on cross-examination that the radiologists who reviewed the x-rays allowed for the theoretical possibility that the infant daughter could have suffered her fractures all at once. But, according to the pediatrician, there was “a lot to suggest otherwise.” In their writ petitions, mother and father highlight the pediatrician’s admission that he could not say with absolute certainty when the infant daughter suffered the fractures. It is true that the pediatrician was “very cautious” in evaluating the timing of the injuries, but it does not follow that his testimony was insufficient to support the juvenile court’s finding. The doctor stated that the infant’s many fractures were at various stages of healing, he explained why this was relevant in determining when they might have occurred, and he opined that the injuries happened at different times. No party offered any contrary evidence. We thus conclude there was

sufficient evidence the infant daughter suffered “more than one act of physical abuse, each of which cause[d] . . . bone fracture,” one of the elements of severe physical abuse under section 300, subdivision (e).⁴

2. The parents knew or reasonably should have known of the abuse.

Mother and father next contend that there was insufficient evidence that their daughter was abused by them or that they knew or should have known of the abuse. (§ 300, subd. (e).) As mentioned above, the statute does not require actual knowledge of abuse by the parents; it only requires that they “reasonably should have known” of the abuse. (*In re E.H.*, *supra*, 108 Cal.App.4th at p. 670.) “[W]here there is no identifiable perpetrator, only a cast of suspects, jurisdiction under subdivision (e) is not automatically ruled out. A finding may be supported by circumstantial evidence Otherwise, a family could stonewall the [social services agency] and its social workers concerning the origin of a child’s injuries and escape a jurisdictional finding under subdivision (e).” (*Ibid.*)

Mother and father argue that neither one of them ever acknowledged abusing their daughter, and they point out that the only possible direct evidence of abuse was the older brother’s statement to a social worker that his parents squeezed his younger sister. In doing so, however, they ignore that actual knowledge is unnecessary and that there was abundant circumstantial evidence that mother and father knew, or reasonably should have known, of the abuse. When mother first spoke with a social worker about her daughter’s injuries, she reported that she and father were the girl’s “primary caregivers,” that she was a stay-at-home mother who was “always” with the infant, and that on the “rare occasions if a family member held the baby, she was right there.” These support a

⁴ Severe physical abuse also can be proven if a child suffered a single act of abuse that was sufficiently severe that, if left untreated, would cause permanent physical disfigurement, disability, or death. (§ 300, subd. (e).) Mother and father contend that there was insufficient evidence that their infant daughter’s injuries were so severe. We need not address this argument, however, because we conclude that substantial evidence supports the alternate measure of severe physical abuse. (*In re Joshua H.*, *supra*, 13 Cal.App.4th at p. 1728.)

finding that she was likely present when her daughter was injured. When pressed to explain how their daughter might have suffered so many fractures, mother and father provided various explanations. By the time of the jurisdiction/disposition hearing, they primarily blamed a cousin who witnesses testified used drugs and acted erratically. The juvenile court specifically found that these accusations were “without merit,” and it is of course not our role to consider such matters as witness credibility. (*In re E.H.*, *supra*, 108 Cal.App.4th at p. 669.) As was the case with the child in *E.H.*, we believe “the only reasonable conclusion which may be drawn from the evidence is that [mother and father] *reasonably* should have known [the child] was being physically harmed by someone in the house.” (*Id.* at p. 670, original italics.)

We disagree with father’s assertion that there is no evidence in the record that the daughter showed physical or emotional symptoms of her abuse, and that “[a]ll evidence was in fact to the contrary.” A paternal aunt told a social worker that about a week before mother took the baby to the hospital, the infant “screamed as if in pain” when the aunt stood the baby on her legs. Although the baby apparently did not appear to be in distress when first examined at the hospital, that of course does not mean that she *never* showed signs of distress. The pediatrician who testified as a child-abuse expert stated that the baby’s rib fractures were likely caused by squeezing or compression, that other fractures could have been caused by twisting or jerking motions, and that the break in the left thigh bone “might have been either from a slamming force down on the femur, like with a fall or being thrown down, or potentially breaking, like if you were going to break a pencil.” He testified that he had trouble believing that a person could inflict the baby’s injuries unintentionally, and he explained that the amount of force necessary to cause the baby’s injuries “would cause the baby or a child to experience pain and react to that by crying, which might be something someone would notice.” As with his testimony about the timing of the infant’s injuries, the doctor was cautious in answering the attorneys’ questions about the pain the infant daughter might have experienced. He acknowledged that it was possible that someone observing a child being squeezed or jiggled might not realize how strong the force was, that pain is “a very subjective thing,” and that a baby’s

crying might raise different types of concerns in different circumstances. Still, he stated that “I think in general someone watching someone inflicting or handling a baby that caused fractures like this would know it’s not okay.” He also testified that “I think someone would know when [the fractures] were caused that that was, that the cause was *an unreasonable action.*” (Italics added.)

We conclude that substantial evidence supports the juvenile court’s finding that the infant daughter is a minor described by section 300, subdivision (e).

B. The Juvenile Court Did Not Abuse its Discretion in Denying the Parents Services to Reunify with the Daughter.

A closer question is presented by the parents’ challenge of the juvenile court’s decision to deny them reunification services. When a child is removed from the custody of his or her parents, the juvenile court must order reunification services to the parents unless one of several statutory exceptions applies. (§ 361.5, subds. (a) & (b).) When an exception applies, “ ‘ “the general rule favoring reunification is replaced by a legislative assumption that offering services would be an unwise use of governmental resources,” ’ ” and it is the parent’s burden to change that assumption. (*In re William B.* (2008) 163 Cal.App.4th 1220, 1227; *Raymond C. v. Superior Court* (1997) 55 Cal.App.4th 159, 163.)

The juvenile court here found that the exception in section 361.5, subdivision (b)(5) applied to the infant daughter because there was clear and convincing evidence that “[t]he child was brought within the jurisdiction of the court under subdivision (e) of Section 300 due to the conduct of” the parent for whom services are denied. Under this exception, the court *shall not* order reunification services *unless* it finds, “based on competent testimony, those services are likely to prevent reabuse or continued neglect of the child or that failure to try reunification will be detrimental to the child because the child is closely and positively attached to that parent. The social worker shall investigate the circumstances leading to the removal of the child and advise the court whether there are circumstances that indicate that reunification is likely to be successful or unsuccessful and whether failure to order reunification is likely to be

detrimental to the child. [¶] The failure of the parent to respond to previous services, the fact that the child was abused while the parent was under the influence of drugs or alcohol, a past history of violent behavior, or testimony by a competent professional that the parent's behavior is unlikely to be changed by services are among the factors indicating that reunification services are unlikely to be successful. The fact that a parent or guardian is no longer living with an individual who severely abused the child may be considered in deciding that reunification services are likely to be successful, provided that the court shall consider any pattern of behavior on the part of the parent that has exposed the child to repeated abuse.” (§ 361.5, subd. (c).) While the social services agency “has the statutory duty to investigate and present the court with information about the prognosis for a successful reunification, it is not required to prove the services will be unsuccessful.” (*Raymond C. v. Superior Court*, *supra*, 55 Cal.App.4th at p. 164.)

“We review an order denying reunification services by determining if substantial evidence supports it.” (*In re Gabriel K.* (2012) 203 Cal.App.4th 188, 196; see also *Cheryl P. v. Superior Court* (2006) 139 Cal.App.4th 87, 96.) We review the court's decision not to order services after finding that the exception applies for abuse of discretion. (*Gabriel K.* at p. 197; *Cheryl P.* at p. 96, fn. 6.)

As we have already determined, substantial evidence supports the juvenile court's conclusion that the infant daughter is a child described by section 300, subdivision (e). It follows that sufficient evidence supports the court's conclusion that the exception in section 361.5, subdivision (b)(5) to the provision of services applies as well. This is true even though the perpetrator of the abuse was not identified. (*In re Kenneth M.* (2004) 123 Cal.App.4th 16, 21; *In re Joshua H.*, *supra*, 13 Cal.App.4th at pp. 1731-1732.)

Thus, the main question presented is whether the juvenile court should have exercised its discretion under section 361.5, subdivision (c) to offer services notwithstanding the presumptive prohibition on doing so because the child suffered severe physical abuse. Although the burden was on the parents to demonstrate that services should have been provided (*Raymond C. v. Superior Court*, *supra*, 55 Cal.App.4th at p. 163), the Agency first had a statutory duty to investigate the

circumstances surrounding the child's removal and to advise the court whether reunification is likely to be successful *and* "whether failure to order reunification is likely to be detrimental to the child." (§ 361.5, subd. (c).) In *In re Rebekah R.* (1994) 27 Cal.App.4th 1638, the court vacated an order terminating the father's parental rights after it concluded that the social services agency had failed to satisfy its investigatory obligation or advise the court on the likelihood of successful reunification. (*Id.* at p. 1656.)

In considering the likelihood of successful reunification here, a social worker with the Agency acknowledged that the parents had been "diligent in pursuing services and in presenting themselves as concerned, cooperative and motivated parents." The social worker nevertheless concluded that the prospects for reunification were slim because mother and father may have "social personality issues," and "[t]he severity of the unexplained abuse in this case may not lend itself to treatment through these avenues. The level of violence and emotional detachment that would be present to inflict injuries of this kind or to protect an abuser is significant and is not usually amenable to change. [Mother and father] state they do not know how [their daughter] sustained her injuries but there are dynamics in their relationship that are of concern. If the parents are offered services it is likely they will complete the requirements but the minors would remain at risk because any underlying psychological factors would remain."

Following the close of evidence at the dispositional hearing, counsel for the agency acknowledged what the juvenile court characterized as the parents' "tremendous efforts" to obtain services on their own and commended them for those efforts. But counsel argued that there was no evidence that the parents were addressing the "real underlying problems in this case" and that without a psychological evaluation of the parents, there was insufficient evidence that the parents could be safely reunified with their children. When the juvenile court pressed the minors' counsel, who supported ordering services for the parents, whether there was sufficient evidence that the parents could successfully reunify with the children within six months, counsel responded,

“Frankly, I don’t have any evidence. [¶] You know, perhaps it’s more of a hope than evidence to be frank, yeah.”

Neither mother nor father apparently contends that the Agency failed to satisfy its duty under section 361.5, subdivision (c) to investigate the circumstances leading to the children’s removal and to advise the court whether reunification was likely to be successful. (Cf. *In re Rebekah R.*, *supra*, 27 Cal.App.4th at pp. 1652-1653, 1656.) Instead, in their writ petitions they focus on the various factors set forth in section 361.5, subdivision (c) indicating that reunification services are not likely to be successful, and they argue that those factors weighed in their favor. They also point out the evidence presented of their progress in the services they had undertaken on their own. They both rely on the statement in *Rebekah R.* that the “inability to provide a reasonable explanation for how [a minor] sustained her injuries[] does not compel a conclusion one way or the other concerning the likely success of reunification services.” (*Rebekah R.* at p. 1653.) But that statement was made in the context of explaining that the juvenile court in *Rebekah R.* had inadequate information with which to evaluate the likelihood of successful reunification. In this case, by contrast, it was clear that the juvenile court focused on whether it was likely that mother and father would reunify with their infant daughter, notwithstanding the fact that they had undertaken reunification services on their own. We cannot say that the juvenile court exceeded the bounds of reason when it impliedly concluded that mother and father had not established that reunification services were “likely to prevent reabuse or continued neglect of the child.” (§ 361.5, subd. (c).)

In considering reunification, the Agency gave less attention to a possible alternative basis for granting services, namely, whether “failure to try reunification will be detrimental to the child because the child is closely and positively attached to th[e] parent[s].” (§ 361.5, subd. (c).) Again, the Agency had a statutory duty to “advise the court . . . whether failure to order reunification is likely to be detrimental to the child.” (§ 361.5, subd. (c).) Although the Agency’s reports did not highlight this factor, the juvenile court concluded—after hearing from several witnesses and admitting multiple exhibits into evidence—that the infant daughter “suffered severe physical abuse, and it

would not benefit [her] to pursue reunification services with the offending parents.” In their writ petitions, mother and father direct this court to the evidence indicating that their daughter was positively attached to them and that visits with her had gone well. But even assuming that the parents established they had a positive bond with their infant daughter, it does not necessarily follow that declining to order services would be *detrimental* to her, given her young age. The social worker reported that the girl seemed “comfortable with both parents” during visits, but she also appeared that way with her caretakers and others, and she viewed her current caretaker as her “primary attachment.”

Like the parties did below, we acknowledge that mother and father made positive efforts to obtain services on their own, and we commend them for their efforts. Nonetheless, we are unable to disturb the juvenile court’s ruling unless we conclude that the court “ “exceeded the limits of legal discretion by making an arbitrary, capricious, or patently absurd determination.” ’ ’ ” (*In re Stephanie M.* (1994) 7 Cal.4th 295, 318.) When, as here, two or more inferences reasonably can be deduced from the facts, we have no authority to substitute our judgment for that of the lower court. (*Id.* at p. 319.) Mother and father have not demonstrated that the juvenile court abused its discretion in denying them services to reunify with their daughter.

C. The Juvenile Court Did Not Err in Denying the Parents Services to Reunify with the Older Brother.

We similarly reject the parents' argument that the juvenile court erred when it denied services for the parents to reunify with the older brother under section 361.5, subdivision (b)(7). Under that subdivision, the juvenile court may deny reunification services in connection with a sibling of the minor who was the subject of section 361.5, subdivision (b)(5), as the infant daughter was here. (*In re Kenneth M.*, *supra*, 123 Cal.App.4th at p. 22.) The court *shall not* order reunification services in such circumstances unless it finds, by clear and convincing evidence, that reunification is in the child's best interest. (§ 361.5, subd. (c).) The record supports the juvenile court's decision to deny services for the older brother. (*Kenneth M.* at p. 22.)

In arguing to the contrary, mother and father again point to the evidence showing that they were engaged in services and making progress in improving their parenting skills and that visits with the older brother had gone well. There was evidence in the record, however, that reunification services would not be in the brother's best interest. This evidence included the social worker's report that the boy was "very attached" to his current caregiver, that he was "relieved to return to the placement home" after visits, and that he reported parental abuse of his younger sister. Again, we cannot say on the record before us that the juvenile court abused its discretion in denying the parents services to reunify with the older brother.

III.
DISPOSITION

The petitions for extraordinary writ relief are denied. (§ 366.26, subd. (l); Cal. Rules of Court, rule 8.452(h).) The request for a stay of the selection-and-implementation hearing scheduled for September 16, 2013, is denied as moot. This decision shall be final in three days. (Cal. Rules of Court, rules 8.452(i), 8.490(b)(3).)

Humes, J.

We concur:

Ruvolo, P. J.

Rivera, J.